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October 12, 2021

**VIA ELECTRONIC MAIL AND ECF**

Honorable David S. Jones  
United States Bankruptcy Court  
Southern District of New York  
One Bowling Green  
New York, NY 10004-1408

**Re:** *In re Kossoff PLLC*  
**Bankr. Case No. 21-10699 (DSJ)**

Dear Judge Jones:

This firm represents JPMorgan Chase Bank, N.A. (“Chase”) with respect to the above referenced bankruptcy case and respectfully requests a conference with the Court to discuss the discovery motion [Doc. No. 190] improperly filed by the Chapter 7 interim trustee (the “Trustee”) late Thursday night (the “Discovery Motion”). As we explained to Trustee’s counsel last Friday and this morning, it is our understanding that Chase has already produced thousands of pages of documents responsive to the Trustee’s document demand and given that Greenberg Traurig has just recently been retained to represent Chase in the matter, we requested the Trustee consent to a short two week adjournment of its Discovery Motion in order for Chase’s new counsel to get up to speed in order to ascertain which documents may still be required to produce, if any. Unfortunately, the Trustee has refused our adjournment request.

According to the Trustee’s Discovery Motion, the Trustee served his Bankruptcy Rule 2004 subpoena on Chase on June 3, 2021, seeking various documents related to, among other things, the above-referenced debtor’s bank accounts at Chase. In his Discovery Motion, the Trustee admits that “[t]he Trustee received productions from JPMC on or about June 25, 2021, September 1, 2021, and September 3, 2021 in response to the Subpoena (the “JPMC Production”). Included in those productions are some check images, bank statements, and Excel files (the “Excel Files”) containing data concerning transactions in the Bank Accounts containing scanned images of bank statements and checks written against the Bank Accounts.” Discovery Motion ¶ 27 (citation omitted). Moreover, “[i]ncluded in the JPMC Production was an Adobe PDF of 6,578 pages.” Discovery Motion ¶ 29.

In violation of your Honor’s Chambers Rules and Local Bankruptcy Rule (“LBR”) 7007-1(b), on Thursday, October 7, 2021 at 8:20 p.m., the Trustee filed the Discovery Motion seeking an order compelling Chase to comply with the subpoena pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rules 2004 and 9016. At no time prior to filing the Discovery Motion had the Trustee sought a conference with the Court to resolve the alleged outstanding

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discovery, nor has he provided any justification for rushing his motion through, which further violates LBR 9006-1, as the Trustee failed to provide the required fourteen (14) days' notice of the motion,<sup>1</sup> providing Chase with insufficient time to file a response.

By email on Tuesday October 11, 2021, a copy of which is annexed hereto, we, again, advised Trustee's counsel that Greenberg Traurig will be filing a substitution of counsel (which was filed this morning [Doc. No. 192]) on behalf of Chase and handling matters regarding the subpoenas and document production going forward. In addition to requesting a meet and confer and the short adjournment, we advised Trustee's counsel that we would be amenable to keeping the existing October 19 hearing date as a status conference to update the Court on our discussions.

At 11:30 a.m. this morning, the parties held a telephonic call, at which time, we, again, reiterated the request for a short adjournment to allow Greenberg Traurig to determine which, if any documents were not produced, and how best to produce them in a timely manner. During the call, we further confirmed our commitment to work with the Trustee on the matters raised in the Discovery Motion and Chase's intent to timely provide required documents in compliance with the subpoenas and the applicable rules. As part of this process and overall next steps to address this matter (and given Greenberg Traurig's recent retention), we renewed our request for a meet and confer later this week so that we can confirm the information relating to the outstanding items sought by the Trustee. We also renewed our request for a short extension of the existing response date and Discovery Motion hearing so that we can work on these matters cooperatively and get up to speed with the documents already produced and conversations that may have occurred prior to the firm's retention. Annexed hereto is an email to Trustee's counsel dated today, confirming our commitment. While our request was both reasonable and quite practical, the Trustee, again, refused.

Accordingly, we respectfully request the Court schedule a telephonic conference to discuss an orderly path for the parties to properly accomplish the requested discovery.

We thank the Court for its attention to this matter.

Respectfully submitted,



Alan J. Brody

cc: Paul Ferak, Esq. (via electronic mail)  
Neil Berger, Esq. (via electronic mail)  
Minta J. Nester, Esq. (via electronic mail)

<sup>1</sup> The Discovery Motion expressly states that relief is sought under Section 105(a) of the Bankruptcy Code and Bankruptcy Rules 2004 and 9016, not Bankruptcy Rules 7026 through 7037. Accordingly, the Discovery Motion was required to be served at least fourteen (14) days before the return date. LBR 9006-1(b).

## Brody, Alan (Shld-NJ-Bky)

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**From:** Ferak, Paul (Shld-Chi-LT)  
**Sent:** Monday, October 11, 2021 5:01 PM  
**To:** neilberger@teamtogut.com; mnester@teamtogut.com  
**Cc:** Brody, Alan (Shld-NJ-Bky); Muchnik, Leo (OfCnl-NY-CP-Bky)  
**Subject:** Kossoff

Hello Neil. Thanks again for speaking with us. GT will be filing a substitution of counsel, entering an appearance on behalf of JPMorgan and handling matters regarding the subpoenas and document production going forward. As discussed, we're hoping to schedule a time to speak with you later this week regarding the matters raised in the motion and Gray declaration. We're also requesting a short extension of time so that we can get up to speed with what has occurred and also attempt to work with you on the remaining items mentioned in your motion. We'd propose talking later this week about the subpoena and pushing back our response date by two weeks. If you prefer, we also could keep the existing October 19 hearing date and use that as a status hearing to update the court on our discussions.

Please let us know your thoughts on this and if the short extension request is agreeable.

Thanks, Paul

**Paul J. Ferak**  
Shareholder

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**Brody, Alan (Shld-NJ-Bky)**

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**From:** Ferak, Paul (Shld-Chi-LT)  
**Sent:** Tuesday, October 12, 2021 2:34 PM  
**To:** Neil Berger; mnester@teamtogut.com  
**Cc:** Brody, Alan (Shld-NJ-Bky); Muchnik, Leo (OfCnl-NY-CP-Bky)  
**Subject:** Kossoff

Neil,

As we discussed during our call this morning, we're writing to further confirm that we commit to work with you on the matters raised in your discovery motion and Gray declaration and that JPM intends to provide information in compliance with the applicable rules, reserving its rights based on the requests made. As part of this process and overall next steps to address this matter (and given that we were just retained), we renew our request for a meet and confer later this week so that we can confirm with you information relating to the outstanding items. We also renew our request for a short extension of the existing response date and motion hearing so that we can work on these matters cooperatively and get up to speed with the requests and conversations that have occurred thus far. As we've previously told you, we are fine having a status conference on October 12 as we move forward on this. Our request is both reasonable and practical.

Please let us know if you consent to the short adjournment of the motion. Alternatively, we will need to contact the Court today on this. We ask that we be able to present our extension request under these circumstances as unopposed. Please let us know.

**Paul J. Ferak**  
Shareholder

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